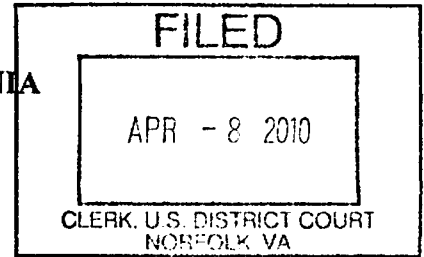


**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**



JOHN JOSEPH BERLIN, #119221,

Petitioner,

v.

ACTION NO. 2:09cv443

GENE JOHNSON,
Director Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of Petitioner's constitutional rights pertaining to his convictions for possession of cocaine with intent to distribute, and two counts of driving with no operator's license on January 31, 2007, in the Circuit Court for the City of Suffolk, as a result of which he was sentenced to serve eleven years in the Virginia penal system, with seven years and ten months suspended.

The petition was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge's Report and Recommendation filed March 15, 2010, recommends dismissal of the petition. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.


The Court does hereby accept the findings and recommendations set forth in the Report and

Recommendation filed March 15, 2010, and it is therefore ORDERED that Respondent's Motion to Dismiss be GRANTED, and that the petition be DENIED and DISMISSED as barred by the statute of limitations.. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.



/s/ Jerome B. Friedman
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

April 7, 2010